

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

JOE STEPHENS,

Plaintiff,

v.

ALASKA DIVISION OF ELECTIONS,
STATE OF ALASKA,

Defendant.

Case No. 1:21-cv-00018-RRB

ORDER DIRECTING SERVICE & RESPONSE

Joe Stephens, a self-represented litigant (herein after “Plaintiff”), filed this action November 11, 2021.¹ The Court reviewed the Complaint and issued an Order to Show Cause requesting additional briefing on the federal question at issue, a copy of the letter from the Alaska Division of Elections, and any judicial order verifying Plaintiff’s alleged name change.² Plaintiff responded and on February 10, 2022, the Court dismissed the action for lack of subject matter jurisdiction.³ Plaintiff filed several post-judgment motions, and a Notice of Appeal.⁴ On June 1, 2022, the Ninth Circuit Court of Appeals reversed and remanded this

¹ Docket 1.

² Docket 7 at 5.

³ Dockets 8, 12.

⁴ Dockets 14, 15, 16, 19; see *a/so* Docket 21.

action back to this Court with the judgment taking effect June 23, 2022.⁵ The Court has jurisdiction under 28 U.S.C. § 1331.

IT IS THEREFORE ORDERED:

1. The Court reconsiders and **GRANTS** Plaintiff's Application to Proceed without Prepayment of the Fee at Docket 3.
2. The Court's finding that Plaintiff may proceed *in forma pauperis* in this action entitles him to service of process by the U.S. Marshals Service, pursuant to 28 U.S.C. § 1915(d). The U.S. Marshals Service fee may be taxed as costs in this case, pursuant to 28 U.S.C. §§ 1920(1) and 1921(a)(1)(A) and included in the judgment. While Plaintiff is entitled to have service of process performed by the U.S. Marshals Service, he is not required to do so.
3. Plaintiff shall proceed with the steps outlined in this order to ensure that service of process on each of the defendants is completed no later than **ninety (90) days from the date of this order.**⁶ All service shall be made in a manner authorized by Rule 4 of the Federal Rules of Civil Procedure.
4. Federal Rule of Civil Procedure 4(j)(2) states:

A state, a municipal corporation, or any other state-created governmental organization that is subject to suit must be served by:

⁵ Dockets 24 & 26.

⁶ See Fed. R. Civ. P. 4(m).

(A) delivering a copy of the summons and of the complaint to its chief executive officer; or

(B) serving a copy of each in the manner prescribed by that state's law for serving a summons or like process on such a defendant.

The Alaska Rules of Civil Procedure Rules 4(d)(7) & (8) govern service of process of a summons and complaint upon the State of Alaska and an Officer or Agency of the State. These rules state:

State of Alaska. Upon the state, by sending a copy of the summons and the complaint by registered or certified mail to the Attorney General of Alaska, Juneau, Alaska, and

(A) to the chief of the attorney general's office in Anchorage, Alaska when the matter is filed in the Third Judicial District; or

(B) to the chief of the attorney general's office in Fairbanks, Alaska when the matter is filed in the Fourth Judicial District.⁷

Officer or Agency of the State. Upon an officer or agency of the state, by serving the State of Alaska as provided in the preceding paragraph of this rule, and by delivering a copy of summons and of the complaint to such officer or agency. If the agency is a corporation, the copies shall be delivered as provided in paragraph (4) of this subdivision of this rule.⁸

⁷ Alaska R. Civ. P. 4(d)(7).

⁸ Alaska R. Civ. P. 4(d)(8).

5. The Clerk of Court shall provide summons forms to Plaintiff, as well as U.S. Marshals Service Process Receipt and Return forms (USM-285).
6. To complete the summons form properly, Plaintiff must do the following:
 - a. At the top each form, above “SUMMONS IN A CIVIL ACTION,” enter the following information, found on the first page of this order:
 - i. the name of the Court (at the very top middle of the page, after “United States District Court for the District of Alaska”); and
 - ii. the parties’ complete full names (above Plaintiff(s) v. Defendant(s), respectively); and
 - iii. the case number, after “Civil Action No.”
 - b. As to the target of the summons (i.e., who the summons is “to”), Plaintiff should write Defendant’s full name and mailing address, if known.
 - c. After the paragraph ending, “The answer or motion must be served on the plaintiff or plaintiff’s attorney, whose name and address are” on the summons form, enter the name and address of the appropriate individual. If Plaintiff retains an attorney, that attorney’s name and address information should be entered there. If Plaintiff continues to be self-represented, then Plaintiff’s name and mailing address should be entered there.

- d. To complete the USM-285 form properly, Plaintiff must include all of the following:
- i. the parties' full names below "Plaintiff" and "Defendant," respectively;
 - ii. the case number, below "Court Case Number";
 - iii. the defendant's full name and address, in the "Serve At" section;
 - iv. Plaintiff's name and address, in the "Send Notice of Service Copy" section;
 - v. number of process to be served (will be 1 per form) and number of parties or parties in this case (total number of defendants named);
 - vi. Plaintiff's signature (under "Signature of Attorney or other Originator"), along with Plaintiff's phone number, and the date.
- e. After Plaintiff completes the required forms, Plaintiff should mail (1) the completed summons forms; (2) the U.S. Marshals' Service of Process Receipt and Return (USM-285) forms; (3) copies of the Complaint; and (4) copies of this order to:

U.S. District Court
222 West 7th Avenue, #4
Anchorage, Alaska 99513

If the summons forms have been completed properly, they will then be issued by the Clerk of Court for service.

- f. After issuing the summons, the Clerk of Court must send the completed summons form, completed USM-285 form, the required copy of the complaint, and a copy of this Order to:

United States Marshal Service
222 West 7th Avenue, Box 28
Anchorage, Alaska 99513

The U.S. Marshal shall then take all reasonable steps to promptly effect service in this case.⁹

7. After a Defendant has been served, the U.S. Marshals must provide the Court with proof of service by submitting an affidavit.¹⁰ The requirements of service are not considered met unless proof of service is submitted to the Court within ninety (90) days of this Order.
8. At all times, Plaintiff shall keep the Court informed of any change of address. Notice of a change of address shall be titled "Notice of Change

⁹ Fed. R. Civ. P. 4(c)(3) (providing "the court may order that service be made by a United States marshal or deputy marshal or by a person specially appointed by the court. The court must so order if the plaintiff is authorized to proceed in forma pauperis under 28 U.S.C. § 1915[.]").

¹⁰ Fed. R. Civ. P. Rule 4(l)(1).

of Address.”¹¹ The notice shall contain only information about the change of address, and its effective date. The notice shall not include requests for any other relief. Failure to file the notice may result in the dismissal of the action for failure to prosecute under Rule 41(b) of the Federal Rules of Civil Procedure.

9. After service of the amended complaint, all future papers sent to the Court must be identified with the name of the Court, the case number, the name of the Plaintiff, the name of the Defendant, and the title of the document, as illustrated on the first page of this order.¹²
10. Plaintiff shall serve a copy of all further filings submitted to the Court upon Defendant or, if an appearance has been entered by counsel for Defendant, on Defendant’s attorney(s).¹³ Plaintiff shall include, with any original paper filed with the Clerk of Court, a certificate stating the date that an exact copy of the document was mailed to each defendant or

¹¹ See Local Civil Rule 11.1(b) (requiring a notice of change of address to be filed “[s]elf-represented parties must keep the court and other parties advised of the party’s current address and telephone number.”). A Notice of Change of Address form, PS23, may be obtained from the Clerk of Court, if needed.

¹² See Fed. R. Civ. P. 10(a) (“The title of the complaint must name all the parties; the title of other pleadings, after naming the first party on each side, may refer generally to other parties.”).

¹³ See Fed. R. Civ. P. 5.

defendant's counsel. A Certificate of Service may be written in the following form at the end of the document:

I hereby certify that a copy of the above (name of document)
was mailed, first class, U.S. mail, to (name of opposing party
or counsel) at (address) on (date).
(Signature)

Any paper received by a District Court Judge or Magistrate Judge that does not include a Certificate of Service, indicating that each defendant was served with a copy of that document, will be disregarded by the Court.

11. Each litigant is responsible for keeping a copy of each document filed with the Court. When a litigant mails a document to the Court, the litigant will receive a Notice of Electronic Filing ("NEF") from the Court that will indicate when that document was filed on the docket and the docket number of the document. Copies of documents that have been filed with the Court may be obtained from the Clerk's Office for \$0.50 per page. In the event of special circumstances or serious financial need, a party may file a motion asking for the cost of copies to be waived or reduced.
12. No party shall have any *ex parte* communication with a District Court Judge or Magistrate Judge of this Court about the merits of this action. This means that parties cannot communicate with any judge without the presence and/or knowledge and consent of the other parties. For example, Plaintiff shall not write letters to, or call, a judge directly. Any

request for action by the Court during these proceedings must be filed with the Clerk of Court as a motion.

13. A motion should contain the information identified in the caption of this Order and should be titled "Motion for (add the relief requested)." In a motion, a party should state specifically and concisely what he or she wants, so that the Court understands what the party is requesting. This Court's Local Civil Rule 7.1(b) requires that each motion be filed with a proposed order that the Court can issue, if the motion is granted. The proposed order helps to clarify what the moving party is asking the Court to do.
14. All documents filed with the Clerk of Court must contain an original signature, and must be mailed to the Court at the following address:

U.S. District Court
222 West 7th Avenue, #4
Anchorage, Alaska 99513

15. The Clerk of Court is directed to send Plaintiff: (1) a copy of this order, (2) three AO 440 summons forms, (3) three Form USM-285, (4) motion form PS12, and (5) a copy of the Court's *pro se* handbook, "Representing Yourself in Alaska's Federal Court."

DATED at Anchorage, Alaska, this 1st day of July, 2021.

/s/ Ralph R. Beistline
RALPH R. BEISTLINE
Senior United States District Judge